

REMARKS

Applicants submit this Amendment and Appendix to Amendment in reply to the Office Action dated April 2, 2003.

As an initial matter, Applicants gratefully acknowledge the Examiner's indication the allowability of the subject matter of claims 15-19, 24-26, 28-38, 62, 88, 91, 95-98, 100, 105, 109, 110 and 112. However, Applicants have not rewritten these claims into independent form including all the limitations of their respective base claims and any intervening claims because at least their respective generic claims, without substantive amendment, are patently distinguishable over the prior art.

In this Amendment, Applicants have amended the specification and claim 44. Applicants have amended the specification solely to correct a typographical error.

Before entry of this Amendment, claims 1-116 were pending in this application. After entry of this Amendment, claims 1-116 are still pending in this application.

The originally-filed specification, claims, abstract, and drawings fully support the amendment to the specification and to claim 44. No new matter was introduced.

In the Office Action, the Examiner objected to claims 44-49 for improperly depending from multiple dependent claim 27. Applicants have amended claim 44 so that claims 44-49 no longer depend from multiple dependent claim 27. Accordingly, Applicants respectfully request withdrawal of this objection.

The Examiner rejected claims 1-14, 20-23, 27, 39-61, 63-67, 89, 90, 92-94, 101-104, 106-109, 111 and 113-116 under 35 U.S.C. § 103(a) as being unpatentable over Poon et al. (U.S. Patent No. 6,281,655) ("Poon") in view of Loopstra et al. (U.S. Patent

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

No. 6,337,484) ("Loopstra") and Ono (U.S. Patent No. 5,780,943). Applicants respond to these rejections as set forth below.

The Examiner rejected claims 1-14, 20-23, 27, 39-61, 63-67, 89, 90, 92-94, 101-104, 106-109, 111 and 113-116 under 35 U.S.C. § 103(a). Applicants assume that the Examiner cited Poon as a reference under 35 U.S.C. § 102(e), as it issued as a patent on August 28, 2001, which is after the August 15, 2001 filing date of this application. Accordingly, if the Examiner cited Poon as a reference under 35 U.S.C. § 102(e), the Examiner would be using Poon to reject claims 1-14, 20-23, 27, 39-61, 63-67, 89, 90, 92-94, 101-104, 106-109, 111 and 113-116 under 35 U.S.C. § 102(e)/103. Under the terms of 35 U.S.C. § 103(c), however,

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Thus, Applicants asserts in the following statement of common ownership that because the present application and U.S. Patent No. 6,281,655 B1 to Poon were, at the time the invention of the present application was made, owned or subject to an obligation of assignment to Nikon Corporation of Tokyo, Japan, Poon may not be cited as a reference to reject claims 1-14, 20-23, 27, 39-61, 63-67, 89, 90, 92-94, 101-104, 106-109, 111 and 113-116 under 35 U.S.C. § 102(e)/103.

M.P.E.P. 706.02(I)(2).

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com

STATEMENT OF COMMON OWNERSHIP

The present application and U.S. Patent No. 6,281,655 B1 to Poon were, at the time the invention of the present application was made, owned or subject to an obligation of assignment to Nikon Corporation of Tokyo, Japan.

Accordingly, because Poon may not be cited as a reference in rejecting claims 1-9, Applicants asserts that the Examiner has not met his burden of establishing a *prima facie* case of obviousness as the Examiner has not shown how the remaining references, Loopstra and Ono, either alone or in combination, render unpatentable the claimed invention.

In view of the foregoing amendments and remarks, Applicants respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.


In discussing the specification, claims, abstract, and drawings in this Amendment, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 1, 2003

By: 
- Michael W. Kim -
Reg. No. 51,880

FINNEGAN
HENDERSON
FARABOW
GARRETT &
DUNNER LLP

1300 I Street, NW
Washington, DC 20005
202.408.4000
Fax 202.408.4400
www.finnegan.com